The Los Angeles Bar Association
BULLETIN

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Notice of Proposed Amendment to Article IX of By-Laws of The Los Angeles Bar Association

To the Members of the Los Angeles Bar Association:

You are hereby notified that there has been presented to the Board of Trustees a proposed amendment to Article IX of the By-Laws of Los Angeles Bar Association, and that the sponsors of the proposed amendment will call up said proposal for a vote and will move the adoption thereof at the regular meeting of the Association to be held on November 19, 1936.

This notice is in accordance with Article X of the By-Laws of the Los Angeles Bar Association.

* * * * * *

Proposed Amendment to Article IX, By-Laws of the Los Angeles Bar Association:

"Section 1. The standing Committee on Judicial Candidates and Campaigns heretofore created under this Section prior to this amendment shall be continued, the members thereof to hold office for the terms for which they were appointed. Upon the expiration of the term of each member, his successor shall be appointed for a period of six (6) years. Such appointment shall be made by an Appointing Board composed of the President of the Association, the ten (10) past Presidents next in order who reside and practice law in the County of Los Angeles, and the Presidents of the Affiliated Associations as defined by Article VI of the By-Laws. The Appointing Board shall meet at the call of the President or of any three (3) members.

"As soon as the list of candidates for any election for judges of the Superior Court of the County of Los Angeles, or of the Municipal Court of the City of Los Angeles, shall have been determined by the filing of petitions, or otherwise as the law may require, then and thereafter it shall be the duty of the Committee:

"(a) To cause to be prepared and mailed to every member of the State Bar of California, in Los Angeles County, a list of all candidates for each office, in ballot form, with request to said members of the Los Angeles County Bar to express thereon their first choice of the candidates for each office appearing on said ballot, and that said lawyers so addressed, after marking said ballot, shall return same, within a time to be fixed by the Committee, to the office of the Los Angeles Bar Association, and that after said time has expired for the return of said ballots, the same shall be canvassed as directed by the Committee and the results thereof made public by said Committee in an announcement which shall record an endorsement by the Los Angeles Bar Association for the candidate for each office who receives the plurality vote for said office, as a result of said plebiscite.

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Los Angeles Bar Association Bulletin

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Community Chest Appeal

IN the opinion of prominent jurists, the Community is on trial when a young boy or girl is brought before the Juvenile Court. What social break-down caused the youth to commit crime?

Judge Robert H. Scott, who as vice-chairman is assisting Chairman James G. Warren in the current "public employees" division of the Community Chest campaign, says "the average boy wants to be good. He gets into mischief only as an alternative to doing nothing."

The jurist pointed to the effective work of the Chest character-building agencies in the prevention of delinquency, citing the Y. M. C. A. in its work "helping a lad to make wholesome contacts and friendships . . . which plays a large part in the prevention program" and the All Nations Boys Club, which "has changed the whole outlook on life for hundreds of families. Lads, who, ten years ago, were perilously close to crime and immorality, are today clean, hard-working, self-respecting men, some of the best citizens, THANKS TO THE DOLLARS WE HAVE SPENT IN BUILDING CHARACTER THROUGH THIS CHEST AGENCY."

"Repetition only of last year's giving," said general campaign chairman Sam E. Gates, "means that agencies will have to stand a 23 per cent. cut. This is chiefly because a County subsidy of past years was declared illegal, creating a deficit and necessitating increased support from private givers.

However, if the generous givers—the real partners in the Chest—increase their gifts this year, the agencies which he has maintained through the years will be able to function as desired and expected by the community."

The plea of the worker is: "Forgotten—Unless YOU Remember"—the 200,000 dependent children and 178,000 adults ineligible for governmental aid that will require service of the Chest agencies the coming year.

(Continued from page 75)

"(b) Prior to the mailing of the ballots as in Subdivision (a) set forth, to request in writing from the candidates for each office on which there is a contest, that a biographical sketch be submitted, which sketch shall be released by the Committee to legal publications in the County of Los Angeles, for publication, without expense to the Association, concurrently with or prior to the mailing of the ballots as herein provided for, and to send with each ballot the list of the publications and their dates of publication in which said biographical sketches appear."

* * * * * *

The Board of Trustees of the Los Angeles Bar Association is in hearty accord with the proposal herewith submitted which will, if adopted, simplify the procedure of the plebiscite, save money for the Association and give us a plebiscite in which all members of the Bar in the County may participate.

Notice of Proposed Amendment to Section 2 of Article V of By-Laws of The Los Angeles Bar Association

To the Members of the Los Angeles Bar Association:

Please be advised that in accordance with Article X of the By-Laws of the Los Angeles Bar Association, you are hereby notified that there has been presented to the Board of Trustees a proposed amendment to Section 2 of Article V of the By-Laws. The sponsors of the proposed amendment will call up said proposal for a vote, and will move the adoption thereof at the regular meeting of the Association on November 19, 1936.

* * * * * *

Section 2 of Article V of the By-Laws should be amended to read as follows:

ADMISSION FEE AND DUES

"Section 2. There shall be no admission fee. Effective January 1, 1937, the annual dues of active members, except members of the Junior Committee and the Women's Junior Committee, shall be Twelve Dollars per calendar year, and of non-resident members shall be Seven Dollars per calendar year.

Effective January 1, 1938, annual dues of affiliated members shall be Seven Dollars per calendar year, provided, however, that if any affiliated member maintains an office in the City of Los Angeles or is a member of a firm which maintains an office in the City of Los Angeles, the dues of such affiliated member shall be Twelve Dollars per calendar year.

Effective January 1, 1937, the annual dues of members of the Junior Committee and of the Women's Junior Committee shall be graduated in amount as follows: For the calendar year of admission to practice by examination, Two Dollars and Fifty Cents, provided, however, that those admitted subsequent to October 1st of any calendar year shall pay only Two Dollars and Fifty Cents as dues from the time of admission to the close of the next succeeding calendar year; for the second calendar year after admission, Five Dollars; for the third calendar year after admission, Seven Dollars and Fifty Cents; for the fourth calendar year after admission, Ten Dollars; for the fifth calendar year after

admission, Ten Dollars; and for each calendar year thereafter, Twelve Dollars.

Until the changes in dues provided for herein go into effect, members shall continue to pay dues as heretofore provided in the By-Laws.

All dues shall be payable in advance on January 2nd in each year. The Board of Trustees shall have the power to remit dues of any member, or members, in whole or in part."

Respectfully submitted,

R. P. JENNINGS, Chairman.

MEMBERS OF COMMITTEE: Robert P. Jennings, Joseph Smith, Charles L. Nichols, H. Sidney Laughlin, John J. Ford.

* * * * * * *

This proposed amendment to the By-Laws is submitted to you only after very careful consideration by your Board of Trustees, and the fact that the Board finds itself confronted with the necessity of either increasing the dues of the members or curtailing the activities of the Association. The latter is, of course, unthinkable and especially at this time when the Bar is marching forward.

The dues of the Association have not been increased since 1916, and the proposed schedule is still lower than the dues of any Association comparable in size or activities, and it is needless to tell you that the activities and expenses have greatly increased since that time. It is work that must be done and the Board believes it may count upon the cooperation of members in voting the proposed amendment above set forth.

The Craig Judicial Scandal; Los Angeles Bar Association Takes Action

THE California Supreme Court has just ruled that until Appellate-Justice Gavin Craig, convicted 18 months ago in the Federal Court of conspiracy to obstruct justice, is removed by one of the three methods prescribed in the Constitution—recall, concurrent resolution of both houses of the Legislature by a two-thirds vote, and impeachment—he is still in office.

This anomalous situation, which has become a scandal to the Bar of California, and the subject of pointed editorial comment in the press of the State, called for action by the organized bar. Action by the Legislature will be urged when it meets in January, 1937. In the meantime, the Los Angeles Bar Association Board of Trustees, at a meeting on November 6, adopted the following resolution:

> WHEREAS, on or about the 14th day of March, 1935, Gavin W. Craig, an Associate Justice of the District Court of Appeal of the State of California, for Division 2 of the Second Appellate District of said State, was indicted by a Federal Grand Jury; and
>
> WHEREAS, after trial had in the District Court of the United States for the Southern District of California, Central Division, a jury did, on the 8th day of May, 1935, return a verdict finding the said Gavin W. Craig guilty of the crime of conspiring to obstruct justice, same being the offense set forth in said indictment; and
>
> WHEREAS, said conviction has been heretofore affirmed by the Circuit Court of Appeals for the Ninth Circuit, and a Petition for Certiorari has been denied by the Supreme Court of the United States, thereby rendering said judgment and conviction final; and
>
> WHEREAS, the public interest and proper administration of justice demand that said Gavin W. Craig should be removed from his office; and
>
> WHEREAS, this Board has heretofore appointed a Committee for the purpose of securing the removal of said Gavin W. Craig from his office as an Associate Justice of the District Court of Appeal;
>
> Now, therefore, BE IT RESOLVED, that the Board of Trustees does hereby direct said Committee, heretofore appointed, to prepare and present to this Board for adoption by it, appropriate resolutions for presentation to both Houses of the Legislature, now about to convene on January 4, 1937, requesting the Legislature to remove the said Gavin W. Craig from office by a concurrent resolution as provided by Section 10, Article VI of the Constitution of the State of California.

BAR TOOK ACTION

Let there be no misunderstanding as to the attitude of the Los Angeles Bar Association on the Craig matter, from the time of his first indictment down to the adoption of the resolution quoted above.

Immediately after Craig's conviction by a jury in the Federal Court on May 8, 1935, a Committee, appointed by the Board of Trustees, called upon the convicted judge and urged him to resign. To this suggestion he returned a curt refusal.

Thereafter the Bar Trustees appointed a special committee to bring the situation before the Legislature, then in session. The Assembly appointed a special investigating committee, and hearings were held in the State building at Los Angeles, commencing May 25, 1935. The Bar Committee prepared a complaint which was presented to the Legislature by Trustee Joseph Smith on

June 4, 1935, and at the same time a Concurrent resolution, sponsored by Assemblymen Jones and Wallace, of the investigating committee of the Assembly, were presented to that body.

The Concurrent Resolution follows:

> WHEREAS, A complaint has been filed with the Legislature of the State of California by William Mosely Jones and Ralph W. Wallace, members of the Assembly of the State of California, for the removal of Gavin W. Craig, as an Associate Justice of the District Court of Appeal of the State of California for Division Two of the Second Appellate District of the State of California; and
>
> WHEREAS, On or about the fourteenth day of March, 1935, the said Gavin W. Craig was indicted by a Federal grand jury; and
>
> WHEREAS, After trial had in the District Court of the United States for the Southern District of California, Central Division, a jury did on the eighth day of May, 1935, render a verdict finding the said Gavin W. Craig guilty of the charge set forth in the indictment; and
>
> WHEREAS, The said Gavin W. Craig should be notified of the said complaint and of the proceedings against him; now, therefore, be it
>
> RESOLVED by the Assembly of the State of California, the Senate thereof concurring, That the said complaint heretofore filed with the Legislature of the State of California on June 4, 1935, be set for hearing before a joint session of the Legislature of the State of California, on Saturday, June 8, 1935, at the hour of eleven o'clock a. m. in the Assembly Chamber in the State Capitol in Sacramento, California; and be it further
>
> RESOLVED, That a notice of hearing of said complaint be served upon said Gavin W. Craig, and that he be thereby cited to appear before said joint session of the Legislature of the State of California, and that he be given an opportunity of being heard upon the charges contained in said complaint.

The Legislature, having been in session long beyond the usual time for adjournment, and having set a definite time to end the session, adjourned on June 5, the day following the presentation of the Concurrent Resolution. There the matter ended so far as the last session of the Legislature was concerned.

QUO WARRANTO

The Attorney-General commenced an action in Quo Warranto in the name of the People of California, based on Section 996, subdivision 8, of the Political Code, praying for a judgment declaring that the office of Craig had become vacant, and that he be ousted and excluded therefrom. Judgment was entered for the people, and an appeal was taken.

It is on this appeal the Supreme Court has just reversed the Superior Court, saying in part:

> "There appears to be two complete answers to the argument advanced by the respondent. *First,* we are of the view that there is merit in the contention of appellant that his conviction under the federal law does not fall within the application of section 996, subd. 8 of the Political Code; and, *second,* the appellant, not having been *removed* from the office to which he was elected, in the manner prescribed by the provisions of the state Constitution, he is still entitled to hold office.
>
> "Because we are convinced that the second point of appellant's attack on the judgment is legally unanswerable, we deem it necessary to consider that point alone. Appellant has not resigned nor been removed from his constitutional office in any one of the three ways prescribed in the Constitution of the state. Those ways are: (1), by

recall by the people (Const., art. XXIII, sec. 1); (2), by concurrent resolution of both Houses of the Legislature adopted by a two-thirds vote of each House (Const., art. VI, sec. 10); (3), by impeachment by the Legislature (Const., art. IV, sec. 18). After naming the office-holders who 'shall be liable to impeachment', including Judges of the District Court of Appeal, the last cited section provides: '*All other civil officers* [italics added] shall be tried for misdemeanor in office in such manner as the Legislature may provide." By application of the rule of construction laid down by the maxim, *inclusio unius est exclusio alterius,* [inclusion of one is exclusion of the other], we arrive at the conclusion that by including certain judicial officers in the list of those who may be removed by joint resolution of both houses of the legislature, or impeached, or recalled in the manner prescribed in the Constitution, the people intended to and have designated the only means by which such officers may be ousted for misdemeanor in office."

Court Records

Examination of the federal court files discloses the following:

U. S. v. Craig, 12148-C, indictment filed Oct. 5, 1934.
U. S. v. Craig, 12231-C, indictment filed December 19, 1934.
U. S. v. Craig, 12337-H, indictment filed March 14, 1935.

The indictments were returned by the Grand Jury on the above dates. The first indictment was dismissed by the government after demurrer to the first count of the indictment was sustained. The second indictment was dismissed by the government after a disagreement of the jury resulting in a mistrial. The third indictment is the one under which Craig was convicted.

An examination of the California Appellate Reports shows that the last case in which Craig participated was *People v. Dillon,* decided by the Second Appellate District, Division 2, on October 3, 1934 and reported in 1 Cal. App. (2d) 224). Willis *pro tem* wrote the opinion and Craig, acting P. J. and Desmond concurred. The opinions which follow in the reports for Division 2 have Stephens and Desmond with a justice *pro tem.*

Draws Salary

Craig has rendered no service since the case of *People v. Dillon, supra,* but under the Supreme Court decision, he is still in office and presumably entitled to draw his salary, even while in jail at Ventura, where he will presumably be sent as soon as the mandate of the Supreme Court of the United States, which recently refused to review the case, reaches Los Angeles.

State Bar Tour to Mexico

By Rex Hardy, Chairman, State Bar Committee

MEXICO! Word has already gotten around of a proposed State Bar pilgrimage to this country of ancient pyramids, snow-crowned volcanoes, and castanets and guitars, and plans are now definitely announced by the committee for an official State Bar Tour to Mexico, to take place next February 5th to 21st.

The tour is in answer to an invitation from the National Bar of Mexico to visit the romantic neighbor-country during the coming winter.

The committee points out that February in Mexico is the heart of the Winter Season. Both climate and country are in the fiesta spirit. Because of the extra advantages of seeing Mexico at this time and under the tour auspices, members of the Los Angeles Bar who are not planning to take winter vacations may wish to "move up" next summer's vacation, on the idea that they will be getting a better, more interesting vacation for less money than they would have to spend later. Others may have uncompleted vacations from last summer which could be applied on the tour.

A movement has been started to obtain court continuances during the period, and it is further pointed out that of the 16 days duration of the trip, a total of seven, or one full week, will be non-working days. The committee has thoroughly considered the practicability of the winter date, and urges lawyers to exert the necessary ingenuity and planning of work to allow them to join.

It will be one occasion on which members of the legal profession will get together purely for pleasure. The profession meets frequently for business, rarely for pleasure and relaxation. As a class lawyers work more and play less than most groups, and it is for each attorney to decide whether the many advantages of the proposed trip would not be as good for him in the long run as two weeks devoted to routine business.

Picturesque

Those who have visited either the coast cities or the central plateau of Mexico (both of which are included in the route of the special tour train), say that no one will be disappointed through anticipating much. Picturesque Taxco, high in the Guerrero Mountains, is compared to coming on a riot of wild flowers climbing a rugged slope. At Cuernavaca memories of Carlotta, the tragic empress, pervade the old mellowed Borda Gardens; while on the walls of Cortez' own palace, Rivera, a conqueror of his own kind, has expressed his opinion of Spanish conquerors! There's a little masterpiece at Puebla—aside from the shops and many better known sights—a gem of ecclesiastical architecture unsurpassed in the world, the Rosario Chapel. At Guadalajara in the old handcraft village of San Pedro Tlaquepaque natives make the pottery that is shipped everywhere.

The party will spend one entire week in and about the capital, Mexico City. Here the bull fights, jai alai games, night life of the Crillon and Patio Andaluz present their modern attractions, while the history of Mexico speaks from every corner and public square.

The entire tour can be made for as little as $239 all expenses. With lower berth accomodation, $262. Those interested are urged to write at once for illustrated folder containing complete information. Use the adjoining form, involving no obligation or solicitation. Travel arrangements and management of the tour are in the hands of Thos. Cook & Son—Wagons-Lits, Inc.

STATE BAR TOUR TO MEXICO COMMITTEE
520 West Sixth St.,
Los Angeles, Calif.

Please send illustrated folder on State Bar Tour to Mexico.
Put me down for tentative reservation for

- ☐ **Upper berth**
- ☐ **Lower berth**
- ☐ **Compartment**
- ☐ **Section**

Name .....

Address .....

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Please write or print legibly

The Missouri Plan of Bar Government*

THE merits of the Missouri plan of Bar Administration as compared with the voluntary bar associations and bar organizations incorporated by legislative enactment and other forms of bar government by judicial rule, in my estimation, should be weighed upon the basis of ability to accomplish the objectives of all bar associations rather than upon the basis of logic. It is assumed that under the decisions of the particular states of which the various forms of bar organizations exist that those organizations are legally constituted under the organic law. In a striking generality, true, in this instance I believe, the late Justice, Oliver Wendell Holmes, stated: "The life of the law has not been logic, but experience." Tested by its brief experience of some twenty (20) months and by the longer experience of some of its constitutive processes the plan of bar government now existing in Missouri appeals to the Bar of Missouri as the most effective method of obtaining the ends to which all bar associations and organizations are, or should be striving.

The Plan

The Missouri plan consists of a delegated judicial bar government complementary to a voluntary state association. To the voluntary state association are left the fields of fellowship, subsidy of legal research, and other functions not concerned with admission to the bar, discipline of lawyers or suppression of unauthorized practice of law and other practices subversive of administration of the law by the courts. Too long voluntary bar associations have proved themselves incapable of enforcing rules of professional conduct, incapable of dealing persistently and practically with the unauthorized practitioners of the law, and often not aware of the development of institutions and practices which impair the efficiency of the courts and the relationship of attorney and client on which the administration of justice is primarily based.

Lay intermediaries, best exemplified by the commercial collection agencies and lay independent insurance adjusters have encroached far into the field of the practice of law, not only unopposed by the voluntary associations but actually abetted by a large part of their membership eager to profit by the lay control of various branches of the practice. Among these parasitical intermediaries the law list "racket" grew to astounding proportions.

Disicipline

To meet the public demand for discipline and to meet the public and professional demand for the suppression of the unauthorized practitioners and these parasitical intermediaries, various forms of official bar organizations sprang up in those states where the sentiment was powerful enough to cause their adoption. For a while organization of the bar took the form of the so-called incorporated bar created by legislative enactment. Dissatisfied in the expedition with which conditions were corrected by the legislative creations, the Bar of Missouri through

*Address of Boyle G. Clark at meeting of Conference of Bar Association Delegates in Boston.

the voluntary Bar Association petitioned the State Supreme Court to appoint a commission to survey existing conditions and to recommend some means for suppression of unauthorized practice and discipline within the profession. The report of the commission recommended the existing plan of bar government now in force in Missouri.

Court Rule

Asserting its constitutional power to protect itself, the proper administration of justice and the rights of litigants, and to prescribe the qualifications for practice of law by its officers, the Supreme Court of Missouri adopted as rules of professional conduct, the Canons of Ethics of the American Bar Association, created local and supervisory bar committees charged with the duty of investigating complaints and commencing disciplinary proceedings; took from the legislature the usurped function of passing upon the qualifications for admission to the bar; charged its bar committees with the protection of the profession and the courts from the practices of laymen subversive to the administration of justice and the franchise of the members of the bar; created a judicial council for the purpose of studying and recommending procedural reforms; financed its program by levying a small yearly license fee against all members of the bar.

Succinctly stated, the aim of our bar government as well as of all others, is the attainment of that state in the profession when only lawyers will handle law practice; when a lawyer may sit in his office secure in the fact that law practice comes to him upon merit alone; when the law practice seeks the lawyer and is handled by the lawyer uninfluenced by the unauthorized practitioner, uninfluenced by intermediaries and uninfluenced by unprofessional conduct.

Judicially Regulated

The judicially regulated bar such as is found in Missouri today appears to us to be more capable of obtaining these ends than any existing or proposed plan of bar government of which we are cognizant. As stated, our short experience has proven this fact to us. We are not so much advocates of the means as advocates of the ends. If a more efficient device to deal with our problems should be proposed, we would advocate its adoption.

The salient advantages of our system are these: Appointed rather than elected officials are more free to deal with organized minorities, or majorities for that matter, and their acts will not be tempered with fear of displacement or by ill advised pre-election pledges or alliances. The recent agitation for appointment of the judiciary now prevalent in every state, and the proven success of the federal judiciary is indicative of the feeling that appointed officials for the administration of judicial functions are not only desirable, but necessary. In this one feature alone our bar administration has secured that elusive quality, independence of thought and action.

Repeal Threat

Furthermore, we do not live in fear of legislative repeal of our bar government. In those states where the bar has been integrated by the legislature, repeal of its law of creation is a constant threat. Combat with these movements is a steady drain upon the time and resources of the administration of the bar, a check upon its unauthorized practice activities when rightful and fair dealing require that laymen be repulsed from the field of the law practice they have invaded.

An outstanding virtue of the judicially regulated bar is the facility with which needed changes in structure and procedure may be affected. We are constantly amending the rules of professional conduct and changing the powers of bar administration as the circumstances require. All those affected by the administra-

tion of our rules, whether laymen or lawyers have instant recourse in petition to the highest court of this state for the review of inequities of the system. Popular representative government in its ideal form cannot furnish to the lawyer and the layman, the resident and the non-resident the summary review of the entire system or a part thereof that our court continuously affords.

Court's Process

The ever present power to investigate with the use of compulsory process any institution, conduct or practice which is thought to impair the administration of justice or to impair the lawyer's franchise is invaluable. We have the use of the process of the Supreme Court of Missouri to reach any person subject thereto in order to find the facts concerning, and to uncover the method of handling of, any matters affecting the administration of the courts. And I may say that extra-territorial failure of our process may be well taken care of by the power to regulate the handling of the law practice in this state, the matter of our primary concern. Notwithstanding this inquisitorial power our entire bar administration, in discipline and in suppression of unauthorized practice and in suppression of insidious practices, must in every instance afford a hearing in a recognized form of action. To the bar administrations our court has given power to act, the power to inquire but has retained the power to supervise, to amend, to hear, determine and adjudge. We know of no more that could be asked of the court by the public or the bar.

We regard our system of bar administration as a compact between the Supreme Court, its bar and people of our state, on the one hand to return to the lawyer's franchise its pristine value, on the other hand to insure to the public the integrity and sufficiency of the bar.

With The Board of Trustees

United States Constitution Sesquicentennial Celebration: Honorable Sol Bloom, M. C. from New York, addressed a communication to President Lyman on September 30, 1936, in which the Association was invited to participate and pay tribute to the Constitution from September 17, 1937, to April 30, 1939, including the anniversaries of ratification, the organization of the national government and the inaguration of President Washington.

It was informally determined that this matter shall be forwarded to the 1937-38 Program Committee for its consideration and that Honorable Sol Bloom shall be so advised.

Trustee Newton M. Todd Resigns. Mr. Newton M. Todd today presented his resignation as a member of the Board of Trustees of Los Angeles Bar Association. Mr. Todd advised the Board that he was resigning due to the fact that he was recently elected to the Board of Governors of the State Bar of California.

Mr. James E. Pawson Elected to Board of Trustees: Mr. James E. Pawson was elected a Trustee of the Los Angeles Bar Association from among the affiliated members to fill the unexpired term of office formerly held by Mr. Newton M. Todd, resigned. The term of said office expires in February, 1937.

The Board considered a letter from Mr. Richard C. Goodspeed relative to the following matters:

a. The shifting of records back and forth between the Northern and Southern offices of the various Commissions of the State, and the question of whether it is desirable to request the Comimssions to at all times maintain records in the Southern offices concerning matters being handled here.

b. A suggestion that the County Law Library be requested to purchase the Alexander Federal Tax Service, and further, that the Committee on Law Library endeavor to see that the publications available at the library are more complete and up-to-date.

The Board voted that the first mentioned matter shall be referred to a special committee for consideration and recommendations to the Board, and that the other matter be referred to the Committee on Law Library for consideration and recommendations to the Board.

A. B. A. Criminal Law Committee Urges Action by Local Associations

Justin Miller, Chairman, Criminal Law Section

AT THE meeting of the American Bar Association in Boston the Section of Criminal Law presented to the House of Delegates the following resolutions, which were by that House adopted:

I. That it is the opinion of this Association that material improvement in enforcement of the criminal law cannot be attained through alteration of the criminal law alone, but must be sought through improvement in the character and attitude of the administrators on whom law's efficiency depends.

II. That, in the opinion of this Association, society can be better protected against crime if police forces are so organized as to provide a high degree of continuity in office for all their personnel, including the chief and policy-directing heads thereof, and if the members of such forces are thoroughly trained in the technique of their work.

III. That every state and local bar association be requested to appoint a prison visiting committee of approximately three members, the membership thereof to be changed annually, which committee shall at least once each year make a thorough investigation of the local penal institution, report to its Association the findings of the committee, and be prepared to interpret to the lawyers of their community the purpose and problems of the said penal institution.

IV. That for the assistance of the wardens of the country some authoritative work on penal law should be compiled. Much of the law upon this subject is geared to the penology of a century ago. In the same manner that the American Law Institute is grappling with the problem of modernizing our criminal law in its forensic aspect, there should be undertaken a codification of the more peculiarly penal law of the different jurisdictions; and that this Resolution and the need expressed herein be called particularly to the attention of the Executive Committees of the various state and local bar associations.

You will observe that resolution No. I calls for no action, but states a proposition, the truth of which can not be questioned. As lawyers occupy many if not most of the administrative offices referred to, it is a matter of particular interest to bar associations to take the necessary steps in each locality to secure the improvement which is needed.

It will be noted again that in the case of resolution No. II no action is called for. It is possible, however, for lawyers, both as individuals in their respective communities and in their bar associations, to take an active part in reshaping public opinion concerning police administration, and in encouraging

the selection of better trained men to serve under more secure conditions of tenure.

It will be noted that resolution No. III calls for action upon the part of each state and local bar association. The American Bar Association therein requests each state and local association "to appoint a prison visiting committee . . . which committee shall . . . make a thorough investigation . . . and report. . . ." Qualified authorities have stated that the penal institutions of this country and especially the local jails are in many instances schools for crime. The most effective way to improve present conditions is to turn the flood light on these institutions, revealing existing conditions to the public, in order that the intelligent leaders thereof may take appropriate action in each case.

It will be observed that resolution No. IV calls attention to the importance of modernizing criminal law as it applies to the field of penology. There is as great need for the attention of trained lawyers in this field of criminal law as in other fields. Up to the present time it has been sadly neglected.

Oliver Wendell Holmes has well said "the first requirement of a sound body of law is that it should correspond with the actual feelings and demands of the community, whether right or wrong". The development of our criminal law is and must continue to be a problem for each state and for each political subdivision thereof. In this work the people of our various communities look to the lawyers for guidance. The American Bar Association, acting upon the recommendation of the Section of Criminal Law, which in turn acted upon the request of the prison administrators of the country, has referred this problem to the lawyers of the various communities.

Dodging the Process Server

MEMBERS of the Bar with experience in the institution of foreclosure and unlawful detainer actions invariably become familiar with the annoying tactics of the process dodger. Frequently it becomes necessary to match wits with a slippery defendant intent upon evading service to process, to hire process servers at large expense who will lie in wait for him indefinitely, to resort to ruses and to exercise ingenuity to the utmost—all in order to accomplish the laudable object of executing the process of the Court.

It would seem that a more simple and dignified way of summoning a defendant into Court could readily be devised, applicable to all cases where the defendant has a known place of residence. Many of the States have adopted substitutes for personal service which are the legal equivalent thereof, differing somewhat in detail.

Without attempting to formulate the exact language of an amendment, it is suggested that an addition to subdivision 7 of section 411 of the Code of Civil Procedure in substantially the following language would tend materially to eliminate the annoyances caused at present by the "artful dodger" of process:

> "But in all cases where the defendant has a known place of residence, any sheriff, constable or marshal may make service by delivering a copy of the summons and complaint to any member of the household of the defendant at said place of residence, or if such person refuses to permit service to be made, or if the defendant be present and refuse to permit service to be made upon him, then by posting a copy thereof in a conspicuous place at or near the entrance to the premises, and by thereupon depositing a copy of the summons in the United States Mail as registered matter, with postage prepaid thereon, addressed to the defendant at said place of residence. The return of service so made shall set forth a compliance with the provisions hereof. Such service, when completed, shall for all purposes be the equivalent of personal service."

Incidentally, the present method of making service by publication might well be modernized by substituting the less expensive but equally effective posting in three public places for publication in a newspaper, and by providing that service shall be complete when the summons is posted—thus avoiding two months of unnecessary delay.—F. N. A.

Back Numbers Wanted!

HAS any member of the Association, among his file of *The Bulletin* back numbers, the one bearing No. 1 of Vol. I, or No. 9, Vol. II? If so please write to the Business Office of *The Bulletin*, 241 East Fourth Street. The Wisconsin State Library has requested these numbers and we would like to comply.

Junior Barristers Start Breakfast Lectures

By Bates Booth, Chairman, Speakers' Committee

THE Junior Barristers have sprung a new idea, and we think it is a winner. Of course, we all privately admit, though not to our clients, that the old law school diploma and certificate of membership in the State Bar don't make lawyers of us. So admitting it means we're still susceptible to learning whatever and wherever we can. Now, the lawbooks we can handle. We know where to find the cases, if there be any. But it's the things the decisions don't decide, the big and little wrinkles that don't make appealable issues, that nobody knows unless he's been through them. That's where the Idea starts.

We are going to have a series of breakfasts, once a month, and to these breakfasts we are going to invite one of the veterans of the bar. From him we are going to ask for a talk, lecture if you please, on a phase of the practice in which he has had particularly revealing experience. For instance, the program started with a discussion on "Trial Strategy," how to plan your case for court presentation. The committee, comprising Milford Springer, Samuel E. Gates, John Hurlbut, Leslie Goddard, Lucien Shaw, and Stanley Love besides the chairman, agreed to invite Allen W. Ashburn for the opener on this fascinating subject, and he graciously and admirably delivered to a responsive and grateful audience. This was at breakfast, November 12, at the Rosslyn.

Next on the schedule is a lecture on "Probate Practice" by a man who knows and knows well, by experience. That will be at the same place, at breakfast, December 10. This will be followed January 14 by a discussion on "Fees and Office Management" and we have in mind a man who has made a nation-wide study of this little taught subject.

This idea was conceived by Chairman Ned Marr of the Junior Barristers and presented to the Executive Committee at its October meeting. It met with such immediate and enthusiastic response that the chairman promptly assigned the task of execution to the Speakers' Committee, which as promptly started the program on its path. The cordial welcome with which the younger lawyers greeted the idea was convincing evidence that they feel the need,—the necessity of carrying on their education and the opportunity that this intimate contact with the work of masters affords.

Another advantage must not be ignored. Young lawyers in this community come from law schools all over the country. To come together, listen and learn together once a month at breakfast joins us in one fine enterprise. And that in itself is worth something.

We believe that the plan will work and live. We hope it will become a Junior Barrister institution, and feed to the senior organization a growing group of young lawyers who have done some post-graduate learning and thinking together.

Cleveland Judicial Candidates Sign Pledge

UNDER the Judicial Referendum of the Cleveland Bar Association, candidates this year signed the following pledge:

As a condition to having my name submitted to a referendum vote of The Cleveland Bar Association and of receiving the support of said Association in the event I am successful in said referendum, I submit to the Committee the following pledge, to be effective regardless of the outcome of said referendum:

1st. I will solicit or accept no funds, directly or indirectly, from lawyers practicing in Cuyahoga County.

2nd. I will permit no lawyer practicing in Cuyahoga County to serve on my campaign committee.

3rd. I will submit to the Committee on Judicial Candidates and Campaigns of the Cleveland Bar Association a full roster of my committee as soon as it is completed and not later than one month before election.

4th. I will submit to said Committee a complete and accurate list of contributors and pledgors with address, business connection, and amount, to my campaign fund, one week before election.

5th. If elected, I will hear or sit in no contested cases in which a member of my committee or contributor to my fund is interested as a party unless with the full knowledge and consent of all parties thereto.

6th. I will conduct my campaign with due regard to the dignity and importance of the office for which I am a candidate.

Unauthorized Practice News

IN *Cain v. Merchants National Bank & Trust Co.,* 268 N. W. 719, July 29, 1936, the Supreme Court of North Dakota held that advertising matter distributed by the defendant bank did not constitute advertising that it maintained an office for the practice of law. In *Judd v. The City Trust & Savings Bank* the Ohio Court of Appeals holds that identical, or closely similar advertising "is advertising that this company is engaged in the practice of law."

In the North Dakota case, it was held that "one who is not a member of the bar may lawfully prepare instruments such as *simple* deeds, mortgages, promissory notes and bills of sale when these instruments are *incident to transactions in which such person is interested,* provided *no charge* is made therefor.

Contrast Judge Pound's comments in *People v. Title Guarantee & Trust Co., 227* N. Y. 366, 125 N. E. 666: "I am unable to rest any satisfactory test on the distinction between simple and complex instruments. The most complex are simple to the skilled and the simplest often trouble the inexperienced;" and the *Judd case, supra,* holding: "There can be no question but that in fact . . . the preparation of any and all legal instruments and contracts by which legal rights are secured . . . constitute the practice of law;" and the holding of the Supreme Judicial Court of Massachusetts in the *Shoe Manufacturers Protective Association case,* that the fact that respondent "draws or copies forms of assignment and agreements, proofs of claim and powers of attorney in bankruptcy and assignments for the benefit of creditors are signed by the 'client' with the name of the attorney in 'blank,' show that at a number of points the respondent has extended its operations beyond the legitimate field of lay business and into the field which public policy requires should be reserved for the professional practitioner."

Contrast the statement of the Supreme Court of Idaho, in *In re Brainard,* 39 P. (2d) 769: "The particular reason or necessity for having the legal work performed is not a justification to practice law without being admitted," a holding of the court in respect of the contention "that all the work he has done in the matter of closing estates and other legal work has been done, by reason of the fact that it became necessary to perform this probate work to clear titles in connection with refinancing loans against the property or in connection with obtaining loans upon property; that he did not at any time accept legal employment in probate matters from any person except someone who had already enlisted his services in some business matter generally in connection with a loan."

Contrast *State ex rel. Wright v. Barlow,* 268 N. W. 95, wherein the Supreme Court of Nebraska said: "Defendant insists that to practice law one must . . . receive a fee for his services. We think this claim is not well founded." And see *Paul v. Stanley,* 168 Wash. 371, 12 P. (2d) 401.

Contrast, as against the implication in the North Dakota decision, that the defendant "made no charge," the holding in State v. St. Louis Union Trust Co., 74 S. W. (2d) 348, that the fees received for acting as a fiduciary constituted valuable consideration;—as presumably did the benefits and profits of, or the charge made by, the North Dakota defendant in connection with the *principal business,* as to which the described acts were *incidental.*

The views of the American Bar Association's Committee on Unauthorized Practice of the Law in respect to these so-called "defenses" is also stated at length and in detail in the Committee's 1935 and 1936 reports. See reports of American Bar Association, Volume 60, p. 532. The 1936 report has been distributed

to members and also contains an opinion by the Committee regarding the appropriate extent to which laymen may "draw" legal instruments.

Layman Forbidden to Practice Before Referee

What is regarded as a decision on an extremely important point was handed down on September 24th by Judge Valentine of the Court of Common Pleas of Luzerne County, Pennsylvania, in the case of *Shortz, Jr., et al. v. Farrell.* The question was simply whether a lay adjuster for an insurance company could lawfully appear before referees in workmen's compensation proceedings. Judge Valentine held that he could not, because such activities constitute the practice of law and it is illegal for a layman to practice law without having been duly and regularly admitted in a court of record, as provided in the Act of April 24, 1933, P. L. 66.

"The findings and conclusions of compensation referees are subject to review by the courts of the Commonwealth. In making such review the pleadings filed with the referee and the testimony taken at the hearings before him are considered and passed upon by the courts. In many cases the evidence which has been adduced before the referee becomes of vital importance. The pleadings should be prepared and the testimony developed by trained minds. Obviously, such work is the work of a lawyer and not of a layman. That such hearing is held before an administrative body rather than the court is, in our judgment, neither controlling nor material, for the matter in controversy and the evidence attendant thereon are subject to judicial review. The production of evidence to be passed upon and considered by the court in the determination of property rights should be developed by a practitioner. This rule is not only for the benefit of lawyers but acts as a protection to the public."

The Lawyer In a Time of Change

"WHEN recruits to the Bar assert their inability to comply with the accepted cannons of honorable conduct in view of the inadequacy of their earnings, and maintain that "WE HAVE TO LIVE", thoughtful men under the standards of the organized Bar cannot respond merely, as did Voltaire, "I fail to perceive the necessity". Here is a problem of adjustment and placement which needs to be dealt with, intelligently, by the profession, else many young lawyers will be driven into the ranks of a waiting bureaucracy and into advocacy of a "socialized" profession.

"I am not one of those who thinks that the practice of law as a profession has ever been easy or that it has usually yielded rich emoluments to the beginner. That is not the history or the performance of the profession as many of us have known it. On the financial side, those starting in practice nowadays are well off, in comparison with the conditions under which the men now over fifty years of age made their start. But it is evident that many of those coming to the Bar today are not of rugged mould; they are not gaited for hard struggle; they want a better deal from the start, without waiting or working for it. Whatever is to be accomplished along these lines is likely to result from the leadership and efforts of the organized Bar; the individual lawyer, young or old, cannot do very much about it."—(From address by WM. L. RANSOM, former President American Bar Association.)

Help! HELP!!

Help Your Association's Employment Office

You are urgently requested when in need of assistance to call upon the Association's employment office. The service is rendered without charge to either employer or employee. The office has on file a number of applications of men and women who are fully qualified.

Attorneys: There are a number of applications on file of attorneys who have recently been admitted, and a few experienced practitioners including the application of one attorney who has devoted approximately five years to trial work.

The office of the Association devotes considerable time to interviewing applicants for secretarial positions and when you use this service you are assured of securing a competent secretary of good appearance and personality. Salaries requested range from $100.00 to $150.00 per month.

Telephone VA. 5701 or VA. 9992. Your call will receive prompt and courteous attention and will be kept confidential.

Sad Plight of Our Detroit Brethren

CAN it be that our rival city Detroit, in its desire to give us, at increasingly frequent periods, those fancy "medals" that appeal to our artistic taste and acquisitive nature, has overlooked the need of equipping its majestic buildings with toilets! It would seem so; and that our brethren of the Detroit bar are suffering by reason of this most unusual oversight. Detroit, it must be remembered, is a great city, almost approaching Los Angeles; that it is congested, with no open spaces, such as we enjoy in Los Angeles. Moreover, it has a hard winter climate, while we enjoy sunshine and an "open season," even during what is sometimes laughingly referred to as "winter." Truly, we can't fully appreciate the Detroit situation.

List to this wail of Brother Donald McGaffey, of the Detroit Bar Association, in a communication addressed to other unfortunate members who must, perforce, visit the Penobscot building, far from home, which the *Detroit Bar Quarterly* prints in its recent issue:

"With a certain timidity, we present one of the more important issues facing the Association. *Shall we or shall we not have toilet facilities in the Association quarters in the Penobscot Building?* Let us bring this problem out into the open where the light of day may shine upon it, and let the chips fall where they may.

The lack of such facilities is not only an aggravating inconvenience to the members of the Association, but according to medical authority, has a tendency to raise the blood pressure, incline the liver to torpidity, the bile to sluggishness, and, in general, lower the tone of the entire system, subjecting it to danger of such dread epidemics as Colic, Hali- and Acid-osis, the disposition suffers, business falls off and relief is frequently unattainable except from the Government.

We propose that something be done about it. To be precise we propose that a fully equipped wash room or wash rooms be installed in the Library Quarters or closely adjacent. We don't care who foots the bill. If the building company, whose flaming beacon rears itself so proudly into the clouds on or inside back cover, will not, then the Association ought. If the Association doesn't have the money to spend,—a contingency all too likely,—we believe the members would gladly contribute.

Will you help? Join in the good work! Let our slogan be:

'A Quarter for the Quarterly's Project No. III.'

DONALD MCGAFFEY."

Federation of Bar Associations

PRESIDENT WILLIAM L. RANSOM, of the American Bar Association, announces that, for what is believed to be the first time in the history of the American Bar, the President of each State Bar Association is now a member of the American Bar Association. In other years, so far as records disclose, there were at least a few Presidents of State Bar organizations who were not enrolled in the National organiaztion of the Bar. Closer cooperation between the American Bar Association and the State Bar Associations, during the year, has brought about a 100% membership of the State Bar Presidents in the American Bar Association.

If the pending plan for a federated and representative National organization of the Bar is adopted in Boston this month, each State Bar President will represent his State Association in the new House of Delegates, until February 1, 1937, or the earlier selection of the Delegate or Delegates from such State Association.

More Bars to the Bar

"While there may be some doubt whether the United States is really the world's greatest crime producer, it certainly heads the list in its output of lawyers. With three times the population of Great Britain, the United States has seven times as many lawyers. In France, the lawyers run about one to every 4,500 persons; in Sweden, one to every 16,000; but in the United States, one person out of every 750 has been admitted to the bar!

"And still they come. Forty thousand young men and women are enrolled this year in law schools of the United States. More than 9,000 annually receive licenses to practice law, and enter the professional sweepstakes with golden hopes. The lawyers, in fact, seem to be multiplying faster than their clients, and it looks as though every American will soon be his own lawyer as well as his only client." —(Mitchell Dawson, of the Chicago Bar, in *"The Rotarian."*)

Speed and Prosperity Mark Air Transportation

FROM an average speed of 151.8 miles per hour in June, 1935, the United Air Lines in June, 1936, showed an increase to 162.07 m.p.h. over its scenic Boulder Dam division of the main-line Mid-continent route. With increased speed came, too, a gain of 60.38 percent in revenue passengers carried; 61.22 percent increase in mail poundage, and 264.33 percent increase in air express. This company carried, according to its semi-annual report for the six months ended June 30, 7,886 revenue passengers, 214,399 pounds of air mail and 205,274 pounds of air express. The corresponding six-months totals last year were: 4,917 revenue passengers, 133,608 pounds of air mail, 56,250 pounds of air express.

Committee on Legal Ethics Opinions

Solicitation

A MEMBER of the Bar has submitted the following question to the Committee: A is an attorney, B is an investigator of public records. C is a person to whom money is due as disclosed by public record, but is unaware of that fact. B proposes to A that A communicate with C advising him that a sum of money is due him and that B will endeavor to obtain such fund for C for fifty per cent of the total amount recovered. C is to be under no obligation for expense and no compensation is to be paid unless there is a recovery. For A's solicitation of the business for B, and presumably for performing any legal services involved, A receives twenty-five per cent of the gross amount of B's compensation. We are asked whether the attorney may properly make such an arrangement with B.

In the opinion of the Committee, the plan of procedure and division of fees outlined is contrary to the letter and spirit of the provisions of the following Canons of Professional Ethics of the American Bar Association:

CANON 27

". . . But solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind. . . ."

CANON 33

". . .

"Partnerships between lawyers and members of other professions or non-professional persons should not be formed or permitted where a part of the partnership business consists of the practice of law."

CANON 34

"No division of fees for legal services is proper, except with another lawyer, based upon a division of service or responsibility. . . ."

CANON 35

"The professional services of a lawyer should not be controlled or exploited by any lay agency, personal or corporate, which intervenes between client and lawyer. A lawyer's responsibilities and qualifications are individual. He should avoid all relations which direct the performance of his duties by or in the interest of such intermediary. A lawyer's relation to his client should be personal, and the responsibility should be direct to the client. . . ."

CANON 38

"A lawyer should accept no compensation, commissions, rebates or other advantages from others without the knowledge and consent of his client after full disclosure."

The plan sets up a series of fictions. The attorney, A, is asked to name as his client the layman, B, when as a matter of fact, B is not a client but a partner of A in the business. A would solicit the business apparently for B, while in fact A is soliciting the business for himself as an undisclosed partner. Nominally the layman B is employed to do the work on a percentage basis, but, in fact, the attorney A is employed on that basis, and the fee is divided between A and B.

It is stated that A does not enter into the contract with C, such contract being made between B and C. Although A's name does not appear on the face of the agreement, nevertheless he is a secret party in interest, and B is an intermediary whose name is used to conceal the interest of A in the transaction. In short, the plan would accomplish by indirection that which is prohibited by the canons of the American Bar Association, as well as by the accepted rules of ethics governing professional conduct, and the attorney may not properly make such an arrangement with the layman.

COMMITTEE ON LEGAL ETHICS,
W. C. MATHES, *Chairman.*

Anonymous Trivia » » » »

During a trial, counsel, in cross-examining a young physician, made several sarcastic remarks, doubting the ability of so young a man to understand his business. Finally he asked:

"Do you know the symptoms of concussion of the brain?"

"I do," replied the doctor.

"Well," continued the attorney, "suppose my learned friend, Mr. Carter, and myself were to bang our heads together, would we get concussion of the brain?"

"Your learned friend, Mr. Carter, might," said the doctor.

An impudent young member of the bar, addressing the court in a criminal case, began:

"My unfortunate client"—and repeating it two or three times, stopped short.

"Go on, sir, go on," said the Judge; "so far, the court is with you."

A certain attorney, in the trial of his case, in closing to the jury, said:

"The plaintiff and the defendant are both lawyers; all the witnesses who have been sworn in the case are lawyers; the counsel of course are lawyers; in fact, every one in any way connected with the case is a respectable member of the bar of this county, with the single exception of his honor on the bench."

An eminent judge, trying a right-of-way case, had before him an old farmer, who was proceeding to tell the jury that he had "knowed the path for sixty year, and my father told me as he heerd my grandfather say——"

"Stop!" said the Judge. "We can't have any hearsay evidence here."

"Not?" exclaimed the farmer. "Then how do you know who your father was except by hearsay?"

After the laughter had subsided, the Judge said: "In courts of law we can only be guided by what you have seen with your eyes."

"Oh, that be blowed for a tale!" replied the farmer. "I had a boil on the back of my neck, and I never seed it, but I be prepared to swear that it's there."
